

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DARREN ALONZO LEWIS,

Petitioner,

v.

THERESA CISNEROS,

Respondent.

No. 1:22-cv-00760-JLT-SKO (HC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. 4)**

**ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS,
DIRECTING CLERK OF COURT TO
ENTER JUDGMENT AND CLOSE CASE
ORDER DECLINING TO ISSUE
CERTIFICATE OF APPEALABILITY**

The assigned magistrate judge issued findings and recommendations to dismiss the petition for failure to state a cognizable habeas claim because the petition was attempting to challenge an error of purely state law. (Doc. 4.) No objections have been filed, and the deadline to do so has expired.

According to 28 U.S.C. § 636 (b)(1)(C), the Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that the findings and recommendations are supported by the record and proper analysis.

In addition, the Court declines to issue a certificate of appealability. A state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-336 (2003). The controlling statute in determining whether to issue a certificate of

1 appealability is 28 U.S.C. § 2253, which provides as follows:

2 (a) In a habeas corpus proceeding or a proceeding under section 2255 before a
3 district judge, the final order shall be subject to review, on appeal, by the court of
4 appeals for the circuit in which the proceeding is held.

5 (b) There shall be no right of appeal from a final order in a proceeding to test
6 the validity of a warrant to remove to another district or place for commitment or
7 trial a person charged with a criminal offense against the United States, or to test
8 the validity of such person's detention pending removal proceedings.

9 (c) (1) Unless a circuit justice or judge issues a certificate of appealability, an
10 appeal may not be taken to the court of appeals from—

11 (A) the final order in a habeas corpus proceeding in which the
12 detention complained of arises out of process issued by a State
13 court; or

14 (B) the final order in a proceeding under section 2255.

15 (2) A certificate of appealability may issue under paragraph (1) only if the
16 applicant has made a substantial showing of the denial of a constitutional
17 right.

18 (3) The certificate of appealability under paragraph (1) shall indicate which
19 specific issue or issues satisfy the showing required by paragraph (2).

20 If a court denies a petitioner's petition, the court may only issue a certificate of
21 appealability when a petitioner makes a substantial showing of the denial of a constitutional right.
22 28 U.S.C. § 2253(c)(2). To make a substantial showing, the petitioner must establish that
23 "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have
24 been resolved in a different manner or that the issues presented were 'adequate to deserve
25 encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting
26 *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)).

27 In the present case, the Court finds that Petitioner has not made the required substantial
28 showing of the denial of a constitutional right to justify the issuance of a certificate of
29 appealability. Reasonable jurists would not find the Court's determination that Petitioner is not
30 entitled to federal habeas corpus relief debatable, wrong, or deserving of encouragement to
31 proceed further. Thus, the Court declines to issue a certificate of appealability. Thus,

32 1. The findings and recommendations issued on June 24, 2022, (Doc. 4), are

ADOPTED IN FULL.

2. The petition for writ of habeas corpus is **DISMISSED** with prejudice.

3. The Clerk of Court is directed to enter judgment and close the case.

4. The Court declines to issue a certificate of appealability.

This order terminates the action in its entirety.

IT IS SO ORDERED.

Dated: **August 10, 2022**


UNITED STATES DISTRICT JUDGE